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APPLICATION NO.	FILING DATE	FIRST NAMED INVENTOR	ATTORNEY DOCKET NO.	CONFIRMATION NO.
09/833,593	04/13/2001	Martin Philip Usher	11696. 0059	5641
27890	7590	02/15/2005	EXAMINER	
STEPTOE & JOHNSON LLP 1330 CONNECTICUT AVENUE, N.W. WASHINGTON, DC 20036			MILLER, BRANDON J	
			ART UNIT	PAPER NUMBER
			2683	

DATE MAILED: 02/15/2005

Please find below and/or attached an Office communication concerning this application or proceeding.

Office Action Summary

Application No.

09/833,593

Applicant(s)

USHER ET AL.

Examiner

Brandon J Miller

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-- The MAILING DATE of this communication appears on the cover sheet with the correspondence address --

Period for Reply

A SHORTENED STATUTORY PERIOD FOR REPLY IS SET TO EXPIRE 3 MONTH(S) FROM THE MAILING DATE OF THIS COMMUNICATION.

- Extensions of time may be available under the provisions of 37 CFR 1.136(a). In no event, however, may a reply be timely filed after SIX (6) MONTHS from the mailing date of this communication.
- If the period for reply specified above is less than thirty (30) days, a reply within the statutory minimum of thirty (30) days will be considered timely.
- If NO period for reply is specified above, the maximum statutory period will apply and will expire SIX (6) MONTHS from the mailing date of this communication.
- Failure to reply within the set or extended period for reply will, by statute, cause the application to become ABANDONED (35 U.S.C. § 133). Any reply received by the Office later than three months after the mailing date of this communication, even if timely filed, may reduce any earned patent term adjustment. See 37 CFR 1.704(b).

Status

- 1) ☒ Responsive to communication(s) filed on 09 December 2004.
- 2a) ☐ This action is **FINAL**. 2b) ☒ This action is non-final.
- 3) ☐ Since this application is in condition for allowance except for formal matters, prosecution as to the merits is closed in accordance with the practice under *Ex parte Quayle*, 1935 C.D. 11, 453 O.G. 213.

Disposition of Claims

- 4) ☒ Claim(s) 13-30 is/are pending in the application.
- 4a) Of the above claim(s) _____ is/are withdrawn from consideration.
- 5) ☒ Claim(s) 13-24 and 26-30 is/are allowed.
- 6) ☒ Claim(s) 25 is/are rejected.
- 7) ☐ Claim(s) _____ is/are objected to.
- 8) ☐ Claim(s) _____ are subject to restriction and/or election requirement.

Application Papers

- 9) ☐ The specification is objected to by the Examiner.
- 10) ☐ The drawing(s) filed on _____ is/are: a) ☐ accepted or b) ☐ objected to by the Examiner.
Applicant may not request that any objection to the drawing(s) be held in abeyance. See 37 CFR 1.85(a).
Replacement drawing sheet(s) including the correction is required if the drawing(s) is objected to. See 37 CFR 1.121(d).
- 11) ☐ The oath or declaration is objected to by the Examiner. Note the attached Office Action or form PTO-152.

Priority under 35 U.S.C. § 119

- 12) ☒ Acknowledgment is made of a claim for foreign priority under 35 U.S.C. § 119(a)-(d) or (f).
- a) ☒ All b) ☐ Some * c) ☐ None of:
1. ☒ Certified copies of the priority documents have been received.
 2. ☐ Certified copies of the priority documents have been received in Application No. _____.
 3. ☐ Copies of the certified copies of the priority documents have been received in this National Stage application from the International Bureau (PCT Rule 17.2(a)).

* See the attached detailed Office action for a list of the certified copies not received.

Attachment(s)

- | | |
|---|---|
| 1) <input checked="" type="checkbox"/> Notice of References Cited (PTO-892) | 4) <input type="checkbox"/> Interview Summary (PTO-413)
Paper No(s)/Mail Date. _____ |
| 2) <input type="checkbox"/> Notice of Draftsperson's Patent Drawing Review (PTO-948) | 5) <input type="checkbox"/> Notice of Informal Patent Application (PTO-152) |
| 3) <input checked="" type="checkbox"/> Information Disclosure Statement(s) (PTO-1449 or PTO/SB/08)
Paper No(s)/Mail Date <u>02/07/04</u> . | 6) <input type="checkbox"/> Other: _____ |

DETAILED ACTION

Response

Applicant's request for reconsideration of the finality of the rejection of the last Office action is persuasive and, therefore, the finality of that action is withdrawn.

Abstract

The abstract of the disclosure is objected to because of undue length. Correction is required. See MPEP § 608.01(b).

Allowable Subject Matter

The following is a statement of reasons for the indication of allowable subject matter:

Claims 13, 19, 26, and 29 contain allowable subject matter because the prior art does not teach or fairly suggest considering a state of a cellular telephone as busy, regardless of an actual state of the cellular telephone. Claims 14-18, 20-24, 27-28, and 30 contain allowable subject matter based on their dependence of independent claims 13, 19, 26, and 29 respectively.

Claim Rejections - 35 USC § 102

The following is a quotation of the appropriate paragraphs of 35 U.S.C. 102 that form the basis for the rejections under this section made in this Office action:

A person shall be entitled to a patent unless –

(e) the invention was described in (1) an application for patent, published under section 122(b), by another filed in the United States before the invention by the applicant for patent or (2) a patent granted on an application for patent by another filed in the United States before the invention by the applicant for patent, except that an international application filed under the treaty defined in section 351(a) shall have the effects for purposes of this subsection of an application filed in the United States only if the international application designated the United States and was published under Article 21(2) of such treaty in the English language.

Claim 25 is rejected under 35 U.S.C. 102(e) as being anticipated by Horrер.

Regarding claim 25 Horrер teaches a method for receiving aboard an aircraft incoming calls for a cellular telephone user aboard the aircraft (see col. 2, lines 25-29 & 60-64). Horrер

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teaches receiving, from the cellular telephone aboard the aircraft, user data associated with the cellular telephone having an associated cellular telephone number (see col. 2, lines 52-65 and col. 4, lines 57-63). Horrер teaches associating a temporary identification code with the cellular telephone; and sending, from the aircraft, at least the user data and the temporary identification code (see col. 2, lines 52-65 and col. 6, lines 14-22 & 44-50).

Response to Arguments

Applicant's arguments filed 12/09/04 have been fully considered but they are not persuasive. Regarding claim 25 Horrер teaches a method for transmitting identification information and forwarding a call associated with a cellular telephone from a facility provided in the airplane (see col. 6, lines 66-67 and col. 7, lines 1-8). This relates to applicant's claim limitation of, "sending, from the aircraft, at least the user data and the temporary identification code", and indicates that the events taught by Horrер in relation to claim 25 can take place aboard the aircraft.

Conclusion

The prior art made of record and not relied upon is considered pertinent to applicant's disclosure.

Lanzerotti U.S Patent No. 6,324,398 discloses a wireless telecommunications system having airborne base station.

Capone et al. U.S. Patent No. 6,393,281 discloses a seamless hand-off for air-to-ground systems.

Gilhausen U.S Patent No. 5,559,865 discloses an airborne radiotelephone communications system.

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Corbefin et al. U.S. Patent No. 6,269,243 discloses device for allowing the use in an aircraft of radiocommunication means.

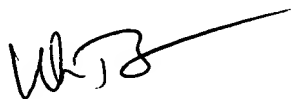
Malik U.S Patent No. 6,252,954 discloses a system and method for delaying the ringing of a line.

Any inquiry concerning this communication or earlier communications from the examiner should be directed to Brandon J Miller whose telephone number is 703-305-4222. The examiner can normally be reached on Mon.-Fri. 8:00 am to 5:00 pm.

If attempts to reach the examiner by telephone are unsuccessful, the examiner's supervisor, William Trost can be reached on 703-308-5318. The fax phone number for the organization where this application or proceeding is assigned is 703-872-9306.

Information regarding the status of an application may be obtained from the Patent Application Information Retrieval (PAIR) system. Status information for published applications may be obtained from either Private PAIR or Public PAIR. Status information for unpublished applications is available through Private PAIR only. For more information about the PAIR system, see <http://pair-direct.uspto.gov>. Should you have questions on access to the Private PAIR system, contact the Electronic Business Center (EBC) at 866-217-9197 (toll-free).

February 7, 2005


WILLIAM TROST
SUPERVISORY PATENT EXAMINER
TECHNOLOGY CENTER 2600